

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM S. HILTS,

Plaintiff,
v.

CASE NO. 07-13564
HON. MARIANNE O. BATTANI

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER OF THE COURT ADOPTING REPORT
AND RECOMMENDATION AND REMANDING CASE FOR
FURTHER ADMINISTRATIVE PROCEEDINGS**

Plaintiff William S. Hilts brings this action pursuant to 42 U.S.C. § 405(g), challenging the final decision of the Commissioner denying his application for disability insurance benefits (DIB) under Title II of the Social Security Act, 42 U.S.C. § 423. Plaintiff filed his claim for DIB on June 4, 2003, alleging a disability onset date of December 2, 2004, due to herniated discs, spondylosis of the cervical spine, and chronic obstructive pulmonary disease. After Plaintiff's claim was denied, he requested a hearing. Administrative Law Judge Ethel Revels ("ALJ") presided over the hearing. After hearing testimony from Plaintiff and a vocational expert, the ALJ found that Plaintiff was not disabled and, consequently, denied benefits.

The Appeals Council denied Plaintiff's request for review. Plaintiff timely filed this action for judicial review of the Commissioner's decision. The case was referred to Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. § 636. Both parties filed dispositive motions, and in a Report and Recommendation ("R&R") dated June 8, 2008,

Magistrate Judge Whalen recommended that the Plaintiff's Motion for Summary Judgment be granted and that Defendant's Motion for Summary Judgment be denied.

In his Report and Recommendation, the Magistrate Judge informed the parties that objections to the R&R needed to be filed "within ten (10) days of service" and that a party's failure to file objections would waive any further right of appeal. Neither party filed an objection. Because no objection has been filed in this case, the parties waived their right to *de novo* review and appeal.

Accordingly, the Court **ADOPTS** the Magistrate Judge's recommendation, **DENIES** Defendant's Motion for Summary Judgment, and **GRANTS** Plaintiff's Motion for Summary Judgment and **REMANDS** this case for further administrative proceedings in accordance with the R&R.

IT IS SO ORDERED.

s/Marianne O. Battani
HON. MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: July 17, 2008

CERTIFICATE OF SERVICE

Copies of this Opinion and Order were served upon counsel of record on this date by e-filing and/or ordinary mail.

s/Bernadette M. Thebolt
Deputy Clerk